

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 15,642
)	
Appeal of)	
)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for General Assistance (GA) benefits for temporary housing. The issue is whether the petitioner met the criteria of having a "catastrophic situation" under the pertinent regulations. The following facts, except where specifically indicated, are not in dispute.

FINDINGS OF FACT

1. The petitioner lives with her four minor children, one of whom recently gave birth to a child of her own. The family has been homeless since February, 1998. For the past several months they have alternately lived in motels, in their vehicle, camping, and staying with friends.

2. Except for a two month period this summer, when the petitioner couldn't work because of surgery (and during which time she received ANFC benefits for herself and three of her children), the petitioner has been employed, and three of her children have either worked part time or received Social Security benefits. The daughter with the baby receives SSI and an ANFC grant for her child. When the petitioner is working, the household income is about \$2,500

a month, which is well above the ANFC payment standards for combined households of four and two persons.

3. Since becoming homeless the petitioner has been the subject of at least two prior fair hearings regarding her eligibility for GA (see Fair Hearing Nos. 15,383 and 15,579). At those hearings the petitioner has been cautioned by the hearing officer that to be eligible for GA she would be held to a strict accounting of how she spent her income; and that as a first priority she would be expected to spend her income on obtaining housing.

4. Late in the afternoon on September 18, 1998, a Friday, the petitioner applied for GA for temporary housing and was denied based on the fact that she could have avoided her situation if she had not recently spent around \$290 on the purchase of new items for the baby that her daughter was then expecting. That same afternoon an "expedited hearing" was held by phone¹ at which time the hearing officer ruled that the petitioner should return the baby items to the store for a refund in order to obtain temporary housing for the weekend, and that she should then either attempt to obtain necessary baby items through charity or apply for GA for them.

5. That same afternoon, after the district office had closed for the day, the petitioner called the hearing

¹See Procedures Manual § P-2610D.

officer to protest the decision. The hearing officer advised her to contact her town service officer if she was without housing and she couldn't or wouldn't return the baby items for a refund.²

6. On Monday, September 21, 1998, the petitioner again applied for GA for temporary housing, alleging that she was without any money. She had not returned any of the baby items, but she had been able to obtain temporary housing (apparently from a local charity) over the weekend.

The petitioner was expecting her next pay check on September 29, leaving eight days of a potential lack of housing.

7. The Department denied the application, and another expedited hearing was held by phone. The hearing officer ordered the Department to pay for two nights of temporary housing, in which time the petitioner would be required to attempt to obtain a refund for as many of the baby items as she could, and the Department would then pay for any nights of temporary housing before September 29 that the petitioner could not purchase after she had obtained the refund. The Department does not appeal this decision.

8. Following the expedited hearing the petitioner returned several items to the store for a cash refund of \$132. Those items included a jumper chair, a walker, diaper

²It turns out that there is no town service officer in the petitioner's town, but this ultimately had no bearing on the petitioner's situation.

bags, a carriage, toys, a bath set, and a car booster seat. The remaining items (including a breast pump, bottles, diaper sacks, nipples, and sheets) were in packages that had already been opened by the petitioner and could not be returned.

9. Almost all of the items the petitioner originally purchased are commonly available to low income people in the petitioner's community through charity or second-hand.

10. With the money from her refund the petitioner was able to purchase three nights of temporary housing on her own. The Department, satisfied that the petitioner had made a good faith effort to return the items she had purchased, provided her with GA for another two nights until the petitioner received her next paycheck.³

11. The petitioner's daughter gave birth to her baby on October 4, 1998.

12. An in-person hearing held on November 3, 1998, at which time the petitioner took issue with the hearing officer's decision requiring her to return the baby items as a condition of having received GA. The petitioner maintains that the decision had placed great stress on her daughter, who was in a precarious medical situation. Fortunately, however, both the baby and her mother had a healthy birth.

³A worker at the local community action agency applied for GA on the petitioner's behalf on September 28, 1998, which the Department denied. It appears that the petitioner was able to obtain temporary housing that night, and she did not appeal that denial. She was paid on September 29, 1998.

ORDER

The Department's decision is affirmed.

REASONS

The GA regulations, at W.A.M. § 2600C, provide that applicants with minor children are eligible for GA only if their income in the last 30 days is "below the applicable ANFC payment level for that size household in similar living arrangements" unless the applicant has exhausted all available income and resources and is facing a "catastrophic situation" as defined by W.A.M. § 2602--i.e., is facing a court-ordered or constructive eviction "beyond the control" of the applicant.

Section 2601, governing "catastrophic situations", includes the following:

- All available income and resources must be exhausted. . . .
- Alternatives must be explored (for example, private and community resources, family, credit).

Subsequent applications must be evaluated in relation to the individual applicant's potential for having resolved the need within the time which has elapsed since the catastrophe to determine whether the need is now caused by the catastrophe or is a result of failure on the part of the applicant to explore potential resolution of the problem. . .

In this case, although it may strike some as Draconian,

requiring the petitioner to return the baby items she had previously purchased is consistent with the above regulation. The petitioner and her daughter had been homeless for many months, had received GA on several prior occasions, and were well aware that the Department considered housing the first priority for spending their income and resources. There is no indication that the petitioner made any attempt to obtain items for her daughter's baby second-hand or through charity. Several of the items she purchased were not necessary for the care and comfort of a newborn (e.g., jumper, walker, toys). The petitioner was also aware that items that were necessary, and which were not otherwise obtainable, could have been covered under GA (and can be in the future, should the need and circumstances arise).

Given the petitioner's history and circumstances, it must be concluded that the petitioner's lack of resources to obtain temporary housing in September could have been avoided in large part by better planning and judgement on her part. Other than the understandable stress and embarrassment of returning the baby items she had already purchased, there has been no showing that either the petitioner's daughter or her baby were placed at risk in seeking a refund for these items. The regulations clearly require an applicant to exhaust all reasonable alternatives to relieving a crisis and to explore all

available income and resources, especially in considering subsequent applications for GA. When a family is homeless, their spending close to \$300 for brand new baby items, without first exploring any alternatives, can reasonably be considered a failure on their part to adequately use their own resources to attempt to resolve their lack of housing. Therefore, the Department's decision, as modified by the hearing officer after the expedited hearing on September 21, 1998, is affirmed.

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